

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

COLE NOELDNER,

Plaintiff,

v.

TAYLOR COUNTY, BRUCE DANIELS (Former
Sheriff of Taylor County), SHERIFF LARRY WOEBBEKING,
LOGAN SCOLES, AARON BERNAS,
RHONDA SACKMAN, JOHN DOES 1-10,
WISCONSIN COUNTY MUTUAL INSURANCE
COMPANY, and ABC INSURANCE COMPANY,

Case No. 21-cv-00244

Defendants.

**DEFENDANT WISCONSIN COUNTY MUTUAL INSURANCE COMPANY'S
COUNTERCLAIM AND CROSS-CLAIM FOR DECLARATORY JUDGMENT**

NOW COMES the Defendant, Wisconsin County Mutual Insurance Corporation (“WCMIC”), by its attorneys, Axley Brynelson, LLP, by Lori M. Lubinsky, and hereby alleges and shows to the Court as its Counterclaim against Plaintiff and Cross-Claim against Defendant Bailee Cheever as follows:

1. Defendant WCMIC is a domestic corporation authorized and licensed to do business in the State of Wisconsin, and its registered agent is David Bisek of Aegis Corporation, 18550 West Capitol Drive, Brookfield, Wisconsin 53042.
2. Defendant Taylor County is a municipal entity in the State of Wisconsin and is located at 224 South 2nd Street, Medford, Wisconsin 54451.
3. Defendant Bailee Cheever is a former Taylor County employee.

4. WCMIC realleges and incorporates by reference Plaintiff's Amended Complaint as qualified and limited by the Answers and Affirmative Defenses of all Defendants, and as qualified and limited by this Counterclaim and Cross-Claim for Declaratory Judgment.

5. WCMIC issued Public Entity Liability policy of insurance, Policy No. 16118 covering the one-year policy period from January 1, 2018, to January 1, 2019, and said policy is subject to all of its terms, conditions, limitations and exclusions contained therein.

6. Defendants tendered defense of the claims asserted in Plaintiff's Amended Complaint to WCMIC, claiming that there is insurance coverage available for the claims made by Plaintiff against Defendants in the above-captioned matter.

7. WCMIC asserts that there is no insurance coverage available to Defendant Bailee Cheever under the Public Entity Liability policy of insurance issued by WCMIC to Taylor County for the claims asserted in Plaintiff's Amended Complaint against Defendant Bailee Cheever.

8. WCMIC has no duty or obligation to defend and/or indemnify Defendant Bailee Cheever for the claims asserted by Plaintiff against Defendant Cheever in the Amended Complaint.

9. The dispute between WCMIC and Plaintiff and Defendant Bailee Cheever creates an actual and justiciable controversy as to whether the Public Entity Liability policy of insurance issued by WCMIC to Taylor County provides insurance coverage to Defendant Bailee Cheever for the allegations contained in Plaintiff's Amended Complaint against Defendant Bailee Cheever.

10. As a result of the justiciable controversy concerning whether there is insurance coverage provided by WCMIC to Defendant Bailee Cheever for the claims asserted by Plaintiff in the Amended Complaint against Defendant Bailee Cheever, WCMIC is entitled to a declaratory

judgment pursuant to Fed. R. Civ. P. 24, declaring the rights of the parties under the Public Entity Liability policies of insurance issued by WCMIC to Taylor County.

WHEREFORE, WCMIC requests the Court enter a declaratory judgment finding and declaring:

1. That there is no insurance coverage available to Defendant Bailee Cheever under the Public Entity Liability policy of insurance issued by WCMIC to Taylor County for the actions of Defendant Bailee Cheever as asserted by Plaintiff in the Amended Complaint;

2. WCMIC has no duty or obligation to defend or indemnify Defendant Bailee Cheever for any of the claims asserted by Plaintiff against Defendant Bailee Cheever Plaintiff's Amended Complaint;

3. That this Court grant WCMIC such other and further relief as the Court deems just and equitable under the circumstances; and

4. That WCMIC be awarded and recover its just and reasonable costs and disbursements incurred herein.

Dated this 14th day of June, 2021.

s/ Lori M. Lubinsky

Attorneys for Defendant

Wisconsin County Mutual Ins. Corporation

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